

yes 3/31/52

**LAW LIBRARY
ARIZONA ATTORNEY GENERAL**

March 29, 1952

Opinion No. 52-88

Major General A. M. Tuthill
The Adjutant General
State of Arizona
747 West Van Buren Street
Phoenix, Arizona

My dear General:

We have your letter of March 25 with which you enclosed agreement forms and information relative to proposed armory construction, and requested our opinion as follows:

"It is requested, therefore, that you furnish this department of the State with your opinion as to whether or not this agreement can be executed and what person or agency of the State should execute the agreement on behalf of the State."

House Bill 66 as passed by the recent session of the Legislature provides in part as follows:

"(c) The adjutant general shall have power, with the approval of the governor to: enter into contracts with any individual, the state, its political subdivisions or any agency thereof, the federal government or any agency thereof for the purchase, acquisition, rental or lease of lands, buildings or military material, and take title thereto in the name of the state, and for the establishment and maintenance of armories, subject to appropriation by the legislature of state funds, if any required by any such contract;"

Giving this provision a broad interpretation which we believe is proper, it is our opinion that the Adjutant General, with the approval of the Governor, would be authorized to execute the agreement with the United States according to the form which you enclosed. The bill, however, did not pass the

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Senate with sufficient votes to carry the emergency clause so it will not be effective until the expiration of the ninety-day period following the close of the session. Under presently existing law, there does not appear to be any authority on the part of anyone to execute such contract.

It is to be noted further that the authority given the Adjutant General and the Governor by House Bill 66 as quoted above makes such authority subject to appropriation by the Legislature of sufficient funds to meet the obligation. We presume that the appropriation bill as finally passed was sufficient to place these funds at the disposal of the Adjutant General and if so, the contract can be executed just as soon as House Bill 66 becomes law. The execution of the agreement should be by the Adjutant General of the National Guard and should additionally show the approval of the Governor.

We return herewith the enclosures which you sent with your letter.

Very truly yours,

FRED O. WILSON
Attorney General

CHARLES C. STIDHAM
Assistant Attorney General

CCS:d
enclosures